

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL ALAN YOCOM,

Petitioner,

v.

KATHLEEN ALLISON,

Respondent.

Case No. 1:21-cv-00187-JLT-HBK (HC)

ORDER GRANTING PETITIONER'S  
MOTION FOR REVIEW OF PETITION TO  
THE LIMITED EXTENT SET FORTH  
HEREIN

(Doc. No. 93)

ORDER DENYING PETITIONER'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

(Doc. No. 94)

Petitioner Michael Alan Yocom, a state prisoner proceeding pro se, has pending a petition for writ of habeas corpus under 28 U.S.C. § 2254. (Doc. No. 1). Before the Court is Petitioner's request for a ruling (Doc. No. 93) and Petitioner's motion for appointment of counsel (Doc. No. 94).

**A. Motion for Ruling**

The Court has the discretion to manage its own docket. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992). And while the Court endeavors to handle all matters as expeditiously as possible, this Court has "long labored under one of the heaviest caseloads in the nation." *See* Standing Order in Light of Ongoing Judicial Emergency in Eastern District of California.

1 Accordingly, Petitioner is advised that the Court will issue findings and recommendations  
 2 regarding his petition in due course. Therefore, Petitioner's motion for a ruling (Doc. No. 93) is  
 3 granted to the extent that the Court will consider and review this matter as quickly as its caseload  
 4 permits.

### 5 **B. Motion for Appointment of Counsel**

6 There is no automatic, constitutional right to counsel in federal habeas proceedings. *See*  
 7 *Coleman v. Thompson*, 501 U.S. 722, 752 (1991); *Anderson v. Heinze*, 258 F.2d 479, 481 (9th  
 8 Cir. 1958). The Criminal Justice Act, 18 U.S.C. § 3006A, however, authorizes this court to  
 9 appoint counsel for a financially eligible person who seeks relief under § 2241 when the "court  
 10 determines that the interests of justice so require." *Id.* at § 3006A(a)(2)(B); *see also Chaney v.*  
 11 *Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986). Moreover, the *Rules Governing Section 2254 Cases*  
 12 *in the United States District Courts* require the court to appoint counsel: (1) when the court has  
 13 authorized discovery upon a showing of good cause and appointment of counsel is necessary for  
 14 effective discovery; or (2) when the court has determined that an evidentiary hearing is warranted.  
 15 *Id.* at Rs. 6(a) and 8(c).

16 Petitioner asks the Court to appoint counsel "due to his grave mental disability." (Doc.  
 17 No. 94). In support of his request, Petitioner attaches "findings and an order authorizing  
 18 involuntary administration of psychiatric medication" from an Administrative Law Judge (ALJ)  
 19 authorizing involuntary psychiatric medication for the period of May 30, 2023 through May 30,  
 20 2024. (*Id.* at 4-6). However, the Court notes that the findings submitted by Petitioner specifically  
 21 note that only *if* he is not administered psychiatric medication, he is "gravely disabled, and lacks  
 22 the capacity to consent or to refuse treatment with psychiatric medications." (*Id.* at 5).  
 23 Moreover, Petitioner has diligently represented himself in these proceedings without the aid of  
 24 counsel. He was able to file his habeas petition, reply to the Answer filed by Respondent, and file  
 25 no less than 25 documents with the Court including motions, requests for judicial notice, letters,  
 26 and objections. (*See generally* docket).

27 Based upon the record, the Court finds Petitioner has not demonstrated that appointment  
 28 of counsel is necessary at this stage of the proceedings. *See Allen v. Calderon*, 408 F.3d 1150,

1 1153 (9th Cir. 2005) (“A party proceeding pro se in a civil lawsuit is entitled to a competency  
2 determination when substantial evidence of incompetence is presented.”). Further, the Court  
3 finds the circumstances of this case at this time do not indicate that appointed counsel is  
4 necessary to prevent due process violations.

5 Accordingly, it is **ORDERED**:

- 6 1. Petitioner’s MOTION for review of the petition (Doc. No. 93) is GRANTED to the  
7 limited extent that the Court will review this case as expeditiously as possible in light  
8 of its current caseload.  
9 2. Petitioner’s motion for appointment of counsel (Doc. No. 94) is DENIED.

10  
11 Dated: September 1, 2023

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE